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| 09/751,060 | 12/29/2000 | Simon Brueckheimer | 476-1985 | 8987 |

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EXAMINER

VINCENT, DAVID ROBERT

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

2661

DATE MAILED: 08/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/751,060

Applicant(s)

BRUECKHEIMER ET AL.

Examiner

David R Vincent

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 June 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,7-17 and 19-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7-17 and 19-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>6/30/2002</u> | 6) <input type="checkbox"/> Other: _____ |

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Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-2, 7-17, 19-26 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. The claims refer to comparing a "planned network" to an "objective comparison model".

Pg. 13, line 22 refers to an "the E-model" (with no antecedent basis) metric; pg. 14 refers to "the network model"; pg. 15, line 29-30 refer to the E-model; pg. 16, lines 27-28 refer to a hypothetical reference connection (HRX) model; pg. 22, lines 14 refers to "lumped models"; pg. 23, lines 31-34 refer to E-model and HRX model; pg. 24 refers to HRX model; pg. 25, line 31 refers to "economic model"; pg. 32, lines 26-27

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refer to lumped models; and pg. 33 refers to an objective model with no further description.

Therefore, the is unable to clearly understand what is meant by comparing a "planned network" to an "objective comparison model". Please indicate where in the specification this limitation is described and/or how all these models relate to one another. Furthermore, although claim 1 does not specify feedback, claim 20 does. Other than a drawing referring to a model that is not described in the specification, there is no description of how the feedback is achieved.

Due to the indefiniteness of the limitation as explained in the 35 USC § 112 rejection, the following rejections are based upon the broadest interpretation of the claims, disregarding the limitation of comparing a "planned network" to an "objective comparison model".

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the

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art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-2, 7-17, 19-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Klassen (US 6,711,137) in view of Sponaule (US 6,144,670) or Schuster (US 6,360,271).

It is not known exactly what the applicant intends the claims to mean but Klassen discloses planning a network, using models, modeling performance, comparing to real test data of current conditions, and adjusting factors based on the comparison. Klassen discloses planning a network (e.g., col. 9, lines 4-10; col. 16, lines 54-67), a plurality of requirements (each category has it's own requirements, col. 6, lines 40-55), determining factors (e.g., col. 4, lines 10-16; quality, col. 5, lines 4-24), modeling the performance (e.g., col. 19, especially lines 15-47), comparing to an objective model (queuing theory model, col. 4, lines 41-64; apparent BW, col. 11, lines 1-21), adjusting factors (e.g., col. 19, especially lines 59-65), a protocol stack (inherent in this environment (col. 6, lines 40-55)). However, Klassen fails to make it clear that each category has defined requirements and target voice quality.

Sponaule teaches defined requirements and target voice quality (quality thresholds, Fig. 2B; parameters, Figs. 5-7 and respective disclosure).

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Schuster teaches defined requirements and target voice quality (e.g., using thresholds, Fig. 3, 4 and respective disclosure).


It would have been obvious to have defined requirements and target voice quality because it is known that when voice data gets delayed more than e.g., 200ms, it starts to sound terrible. It would be obvious to combine either teaching reference with Klassen because they make it more clear that there are defined thresholds for the category of voice (Klassen: category 4, col. 6, lines 40-55).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David R Vincent whose telephone number is 703 305 4957. The examiner can normally be reached on M-TH.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas Olms can be reached on 703 305 4703. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


David R Vincent
Primary Examiner
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August 9, 2004